THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS EL PASO DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	NO. EP-20-CR-00920(1)-DB
)	
JORGE ALFONSO GUTIERREZ)	

MOTION FOR VARIANCE OR DEPARTURE

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW, Defendant Jorge Alfonso Gutierrez, by and through counsel, and respectfully files this motion for a variance or departure from the sentencing guidelines.

For cause, Defendant would respectfully show this Honorable Court as follows:

I.

Federal Sentencing law permits a court to depart or grant a variance from a guideline-specified sentence only when it finds 'an aggravating or mitigating circumstance...that was not adequately taken into consideration by the Sentencing Commission...'. 18 U.S.C. § 3553(b). Thus, cases that are outside of the "heartland" of typical cases allow the court to consider whether a departure or variance is justified.

Under 18 U.S.C. § 3553(a) and (a) (2), and pursuant to Supreme Court precedent under Booker, Gall, and Kimbrough v. United States, 552 U.S. 85 (2007), the overarching statutory charge for district courts is to "impose a sentence that is sufficient, but not greater than necessary" to reflect the seriousness of the offense, promote respect for the law, and provide just punishment; to afford adequate deterrence; to protect the public; and

to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment. The Court should then consider the other factors in 3553(a); among which are the history and characteristics of the defendant and the need to avoid unwarranted sentence disparities among defendants with similar records. 18 U.S.C. 3553(a).

II.

There are 3553(a) factors that warrant a lesser sentence in this case. Principal among the reasons is Defendant's illness while being in custody. Defendant contracted Covid-19 twice while being detained in this case. He found himself with little medication to alleve his symptoms, and he basically had to gut it out. In addition, due to the pandemic, his family, who are from Mexico, have not been able to visit him and he has thus had to endure his time in isolation.

While being in custody, Defendant's step-father and a couple of his Uncles passed away due to Covid-19. Defendant, who suffers from co-morditites, had a hard time in custody with the disease. The pandemic made the time this Defendant has served more difficult than that ordinarily encountered by Defendants.

III.

While in custody, Defendant has worked hard to make good use of his time.

Attached as Exhibit A, are the certificates Defendant earned while incarcerated. His excellent use of time demonstrate to the Court that Defendant is not likely to commit any other offenses against the United States.

For these reasons, Defendant respectfully seeks a downward variance in this case.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that this Honorable Court grant a variance or a departure from the sentencing guidelines.

Respectfully submitted,

ROBERT J. PEREZ 221 N. Kansas Suite 1103 El Paso, Texas 79901 Tel No: 915-542-1222

Fax: 915-532-0904

CERTIFICATE OF SERVICE

I certify that a true copy of the above and foregoing Motion for Sentencing Variance was electronically filed with the Clerk of the Court using the CM/ECF System and was delivered to Assistant U.S. Attorney Mary Dee Carraway at 700 E. San Antonio, Suite 200, El Paso, Texas, 79901.

/s/		
ROBERT J.	PEREZ	

LASALLE

West Texas Detention Facility

CERTIFICATE OF PARTICIPATION

AWARDED TO

Gutierrez Jorge Alonso

46642480

FOR SUCCESSFUL PARTICIPATION

KITCHEN TRUSTY

Trusty Status for 4 months

OF THEIR ABILITY AND FOLLOWED ALL PROGRAM RULES IN PLACE HAS FULFILLED PROGRAM PARTICIPATION REQUIREMENTS TO THE BEST

P.Ramirez/Case Manager

Date: 01/19/2021

West Texas Detention Facility

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CERTIFICATE OF PARTICIPATION

AWARDED TO

JORGE ALONSO GUTIERREZ

FOR PARTICIPATION AS

PEER ASSISTANT
"CAPACITATE PARA EL EMPLEO"
(TRAIN FOR EMPLOYMENT)

From June 22, 2020 to Present

ENCOURAGED, FELLOW STUDENTS TO STRIVE IN TRAINING FOR EMPLOYMENT YOUR POSITIVE ATTITUDE AND MENTORING SKILLS HAVE MOTIVATED AND

Cristina Vasquez Instructor

February 11, 2021

LASALLE CORRECTIONS



West Texas Detention Facility

CERTIFICATE OF PARTICIPATION

AWARDED TO

Gutierrez Jorge Alonso

46642480

FOR SUCCESSFUL PARTICIPATION

Night Shift Trusty

From 03/12/20 to Present Day

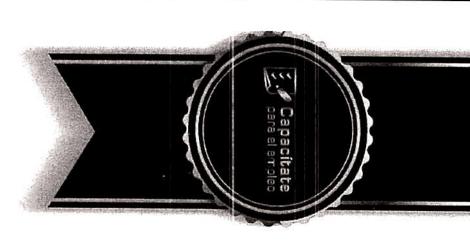


OF THEIR ABILITY AND FOLLOWED ALL PROGRAM RULES IN PLACE HAS FULFILLED PROGRAM PARTICIPATION REQUIREMENTS TO THE BEST

P.Ramiez/Case Manager

Date: 08/05/2020





para acreditar que

Jorge Alonso Gutierrez

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Disciplina en el trabajo

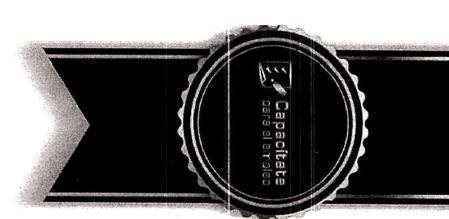


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Ciudad de México a 23 de junio de 2020

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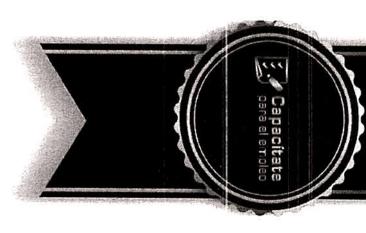
Carlos Sim





Ciudad de México a 22 de junio de 2020







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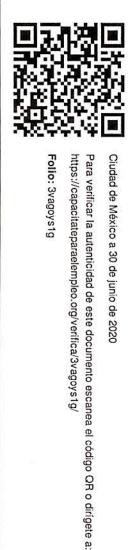


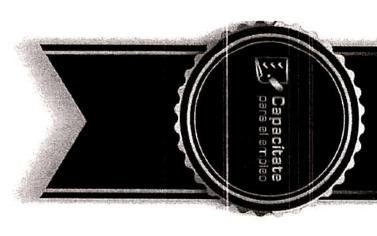
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Jorge Alonso Gutierrez

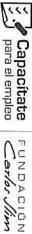
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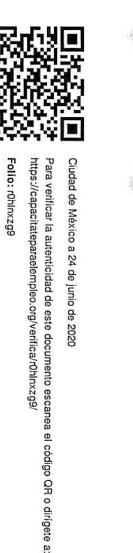
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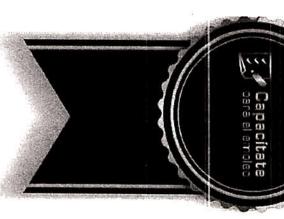
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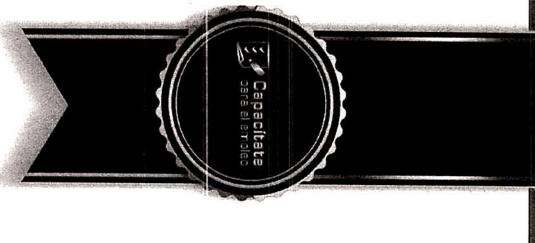
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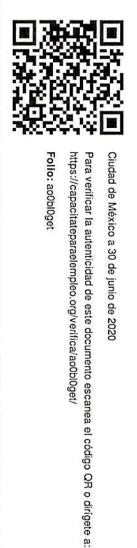
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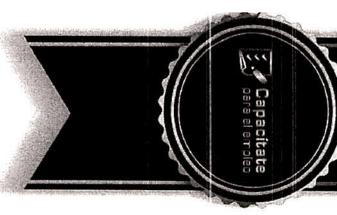
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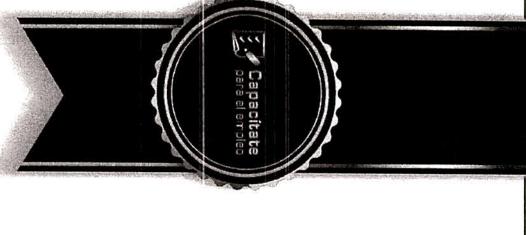
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Carlos Sim







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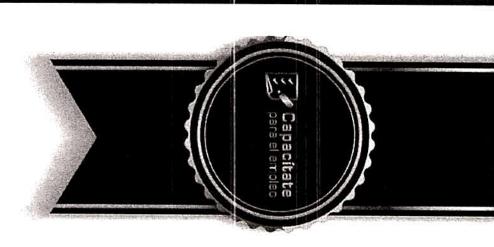
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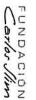
Jorge Alonso Gutierrez

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Servicio de barbería (Barba y bigote)







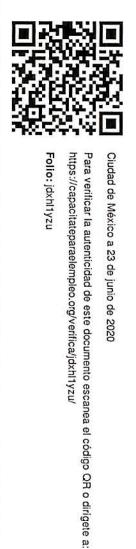


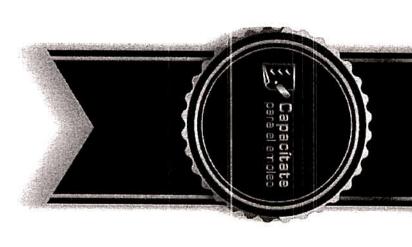


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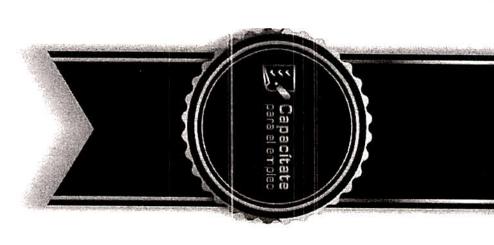
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Electricista



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Operador de autotransporte

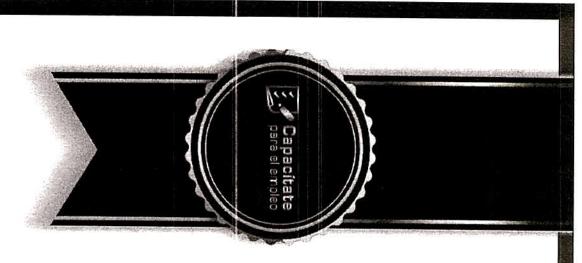
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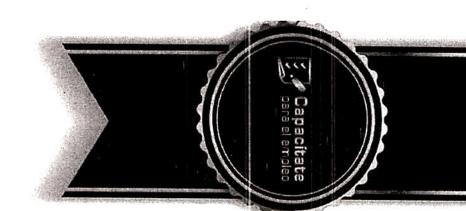
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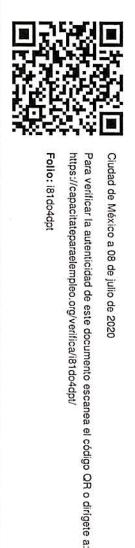
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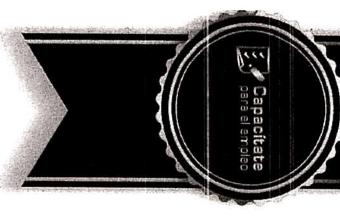


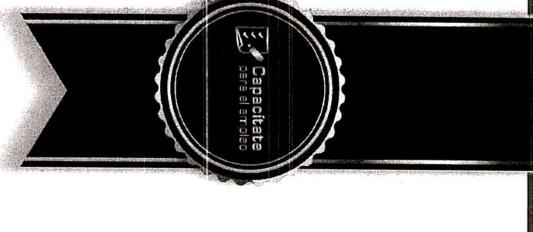
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Promotor en activación física



Carlos Sim



LA DIRECCIÓN DE EDUCACIÓN DE FUNDACIÓN CARLOS SLIM OTORGA EL

DIPLOMA

Α

JORGE ALONSO GUTIERREZ

CURP: AOGJ900323

DIPLOMADO TÉCNICO EN INTEGRIDAD WEB

IMPARTIDO DEL 01 DE OCTUBRE DE 2020 AL 19 DE OCTUBRE DE 2020

POR LA FUNDACIÓN CARLOS SLIM A TRAVÉS DE LA PLATAFORMA CAPACÍTATE PARA EL EMPLEO CON UNA DURACIÓN DE 272 HORAS.

EL PRESENTE SE EXPIDE EN LA CIUDAD DE MÉXICO, A LOS 19 DÍAS DE OCTUBRE DE 2020

DR. JAVIER ELGUEA SOLIS

DIRECTOR DE EDUCACIÓN FUNDACIÓN CARLOS SLIM

FOLIO FCS: CKWM42EHF





Carlos Slim

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LA DIRECCIÓN DE EDUCACIÓN DE FUNDACIÓN CARLOS SLIM OTORGA EL

DIPLOMA

Α

JORGE ALONSO GUTIERREZ

CURP: AOGJ900323

DIPLOMADO EN GESTIÓN DE AMBIENTES VIRTUALES DE APRENDIZAJE

IMPARTIDO DEL 22 DE SEPTIEMBRE DE 2020 AL 06 DE OCTUBRE DE 2020

POR LA FUNDACIÓN CARLOS SLIM A TRAVÉS DE LA PLATAFORMA CAPACÍTATE PARA EL EMPLEO CON UNA DURACIÓN DE 323 HORAS.

EL PRESENTE SE EXPIDE EN LA CIUDAD DE MÉXICO, A LOS 06 DÍAS DE OCTUBRE DE 2020

DR. JAVIER ELGUEA SOLIS

DIRECTOR DE EDUCACIÓN FUNDACIÓN CARLOS SLIM

FOLIO FCS: 7QKB271JZ







THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS EL PASO DIVISION

UNITED STATES OF AMERICA)			
v.) NO. EP-20-CR-00920(1)-DB			
JORGE ALFONSO GUTIERREZ)			
ORDER GRANTING VARIANCE				
Before the Court is Defendant's r	notion for a departure or variance from the			
sentencing guidelines. After considering	g the motion, the court is of the opinion that the			
motion has merit and should be granted.	Accordingly,			
IT IS ORDERED that Defendant's motion for variance from the guidelines is				
hereby GRANTED.				
SIGNED and ENTERED this	day of August, 2021.			
	DAVID BRIONES			
	UNITED STATES DISTRICT JUDGE			